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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,978	06/20/2003	Liwei Ren	DOGO.P011	7151

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EXAMINER

ROBINSON, GRETA LEE

ART UNIT PAPER NUMBER

2167

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,978

Applicant(s)

REN ET AL.

Examiner

Greta L. Robinson

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/2/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-43 are pending in the present application.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on March 2, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner, note attached copy of form PTO 1449.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the following limitation is vague: **"that reduces the size of the difference file"** [note claim 1 lines 1-4]. Note, line 2 of claim 1, provides limitation for the generation of a plurality of difference files (i.e. **"generating difference files"**). The claim language does not appear to distinguish which difference file is reduced in size. Also note line 14 **"receives the difference file"** lacks proper antecedent basis or is vague because it is unclear as to which difference file is received by a second device.

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Regarding claims 7, 8, 35 and 43, the limitation "**the original**" [note: claim 7 line 3; claim 8 line 4; claim 35 lines 4-5; claim 43 line 5] lacks proper antecedent basis. The examiner suggests the limitation "the original version" so as to be in line with the limitation recited in the previous line of the claim.

Regarding claims 7, 8, 18, 35 and 43, the following limitation is vague and lacks proper antecedent basis: "the new versions" [note claim 7 lines 3-4; claim 8 line 4; claim 18 line 3; claim 35 line 5; claim 43 line 5].

Regarding claims 7, 8 and 35, the following limitation is vague and lacks proper antecedent basis: "**the original file**" [note: claim 7 line 14; claim 8 line 11; claim 35 line 16].

The limitations of claims 2-7, 9-17, 19-34 and 36-42 are rejected based on dependency.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 5-8, 18, 19 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Miron US Patent 6,401,239 B1.

Regarding claim 1, Miron teaches a system for updating electronic files [note: automatic update server (512); and column 6 lines 6-14] comprising:

a first device for generating difference files that include coded differences between an original version and a new version of an electronic file, wherein the first device includes at least one component that reduces a size of the difference file by [note: Figure 5, **server computer** (502); note "*generate a delta file 110*" column 6 lines 25-29; "*delta builder generates a delta folder 400A, which is then archived and compressed*" column 8 lines 6-28]:

identifying differences between the original and the new versions corresponding to address shifts resulting from at least one of code line deletion, code line addition, and code line modification [note: column 6 lines 25-33];

removing the identified differences in text sections common to the original and the new versions by modifying target addresses of instructions of the original version using at least one relationship between addresses of text sections of the original version and corresponding text sections of the new version [note: algorithms are used to generate delta files column 7 lines 18-57; figure 8 note step 804];

generating a modified version of the original file that includes the instructions having modified target addresses [note: column 6 lines 25-32; column 7 lines 5-37; figure 1C and 7]; and

a second device that receives the difference file and generates a version of the new file in the second device using the difference file [note: client computer Figure 5;

column 9 lines 12-16 "The restorer 516 creates updated versions of files on the client computer].

7. Regarding claims 5 and 6, wherein the second device is at least one processor-based device ... wherein the first device transfers the difference file to the second device ... [note: client computers 102A column 6 lines 15-24; column 1 lines 9-46].

8. Regarding claim 7, an apparatus for use in generating difference files ... means for receiving an original version ... means for generating a first instruction value ... means for replacing the first instruction ... means for generating a modified version ... [note: figure 5 elements 512, 202, 204; column 9 lines 1-62; and column 10 lines 58-65].

9. The limitations of claims 18, 19 and 35 have been addressed above in claim 7 except for the following limitation "extracting the common units of code" and "calculator instruction" [note: extractor 505; column 8 lines 49-66; delta builder column 6 lines 29-32].

10. Regarding claims 8 and 43, the limitations have been addressed above except for the following, "reducing the size of a difference file" [note: Miron is concerned with space issues and teaches a compressor/decompressor element 505 see column 8 lines 6-14 and 49-59].

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miron US Patent 6,401,239 B1.

Regarding claims 35 and 36, Miron does not specifically teach identifying third and fourth functions that are common between the original and new versions. Miron does however teach an algorithm is used to generate the delta files [note: column 7 lines 38-43]. It would have been obvious to one of ordinary skill at the time of the invention to have implemented a routine to identify the versions through an algorithm to add greater flexibility to the system.

Response to Arguments

13. Applicant's arguments with respect to claims 1-43 have been considered but are moot in view of the new ground(s) of rejection.

In the response Applicant argued the following:

(a) Miron does not teach removing the identified differences in text sections as cited in claims 1, 8 and 43.

In response to Applicants argument the examiner respectfully disagrees. Miron teaches generating the delta files based upon a bit-analysis of the file versions, the algorithm used to generate the delta files works equally well on all files including text files see column 7 lines 38-43.

(b) Miron lacks teaching reducing a size of a difference file. Miron teaches that it would be beneficial to reduce the size of the files being downloaded to reduce the amount of time required to download files [col. column 1 lines 47-61; col. 6 lines 44-61; Column 9 lines 7-12]. Miron teaches that since delta files are generally significantly smaller in size than the versions themselves, the time required to download the delta files is much less; therefore Miron suggests in his teaching that the file or difference file is reduced in size.

(c) Applicant states Miron does not teach identifying instructions that are common to units of code as cited in the claims.

In response note figures 3 and 5, col. 6 lines 5-61, the delta file software automatically recognizes differences or updates.

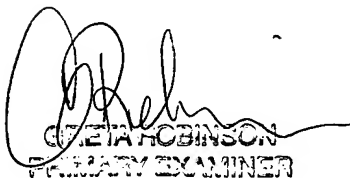
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Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571) 272-4118. The examiner can normally be reached on Mon.-Fri. 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GRETIA ROBINSON
PRIMARY EXAMINER

Greta Robinson
Primary Examiner
May 18, 2005